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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,094	05/23/2005	Jens Christoph Thies	4676-955	2304
23117 7590 04/09/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
SPEER, TIMOTHY M				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
04/09/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/533,094

**Applicant(s)**

THIES ET AL.

**Examiner**

TIMOTHY M. SPEER

**Art Unit**

1794

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-6 and 20-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 3-6 and 20-25 is/are allowed.
- 6) ☒ Claim(s) 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 11/28/05.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Yoshida (USPN 5,667,888).
3. Yoshida teaches a layer comprising hydroxypropyl cellulose, as presently claimed (col. 16, lines 10-11, for instance). The preamble of the present claim is not considered to distinguish over Yoshida, since the preamble merely recites a characteristic or intended use and adds nothing structurally or compositionally to the body of the claim. The claim simply requires a layer comprising hydroxypropyl cellulose. Since Yoshida discloses such a layer, it is the Examiner's position that the present claim is anticipated by Yoshida.
4. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Thoes (USPN 4,139,506).
5. Thoes teaches a layer comprising hydroxypropyl cellulose, as presently claimed (col. 6, lines 9-14, for instance). The preamble of the present claim is not considered to distinguish over Thoes, since the preamble merely recites a characteristic or intended use and adds nothing structurally or compositionally to the body of the claim. The claim simply requires a layer comprising hydroxypropyl cellulose. Since Thoes discloses such a layer, it is the Examiner's position that the present claim is anticipated by Thoes.

6. Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Land (USPN 3,783,075).

7. Land teaches a layer comprising hydroxypropyl cellulose, as presently claimed (col. 6, lines 15-17, for instance). The preamble of the present claim is not considered to distinguish over Land, since the preamble merely recites a characteristic or intended use and adds nothing structurally or compositionally to the body of the claim. The claim simply requires a layer comprising hydroxypropyl cellulose. Since Land discloses such a layer, it is the Examiner's position that the present claim is anticipated by Land.

***Allowable Subject Matter***

8. Claims 1, 3-6, and 20-25 are allowed. As noted in applicant's response dated 12/29/08, the prior art of record fails to teach layers having the compositional and physical characteristics recited in independent claim 1 and claims dependent thereon.

***Information Disclosure Statement***

9. Regarding the 11/28/05 IDS, enclosed please find a 1449 indicating that the EP and WO references cited thereon have been considered and made of record.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TIMOTHY M. SPEER whose telephone number is (571)272-8385. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Timothy M. Speer/  
Primary Examiner  
Art Unit 1794